

CRAIG H. MISSAKIAN (CABN 125202)
U.S. Attorney for the Northern District of California

RAVI T. NARAYAN (CABN 331858)
Acting Chief, Criminal Division

LORINDA I. LARYEA (DCBN 99769)
Acting Chief, Fraud Section

EVAN SCHLOM (DCBN 1028758)
Trial Attorney
Fraud Section, Criminal Division

950 Constitution Avenue, NW
Washington, D.C. 20530
Telephone: (202) 514-2000
FAX: (202) 514-3708
Evan.schlom@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) Case No. CR 24-00329 CRB
Plaintiff,)
v.) [PROPOSED] ORDER PURSUANT TO FEDERAL
RUTHIA HE and DAVID BRODY,) RULE OF EVIDENCE 502(d)
Defendant.)

THIS CAUSE is before the Court upon the Government's Motion for Entry of an Order Pursuant to Federal Rule of Evidence 502(d) and the Stipulated Protective Orders [ECF Nos. 38 and 149] entered in this matter.

Having considered the Motion, and for good cause shown, it is hereby **ORDERED** that:

- 1 1. The United States Filter Team¹ is authorized to release to Defendants He and Brody the
2 following Potentially Protected Material (“PPM”)² that are currently in the possession of
3 the United States Filter Team over which Done Global Inc. and/or Done Health P.C.
4 (together, “Done”) may hold a privilege or protection (the “Done PPM”):
5 a. Approximately 374 PPM items identified on a phone associated with Nikita
6 Mercado;
7 b. Approximately 205 PPM WeChat audio items identified on an iPhone 14 associated
8 with Defendant He;
9 c. Approximately 9,722 PPM items identified on an iPhone 12 associated with
10 Defendant He;
11 d. Approximately 6,893 PPM items identified on a phone associated with Haley Zhu;
12 and
13 e. Any future identified PPM for which Done may be a privilege holder.
- 14 2. The United States Filter Team will not release to the Prosecution Team or any other party
15 the Done PPM, except as authorized by the Court or expressly permitted by Done.
- 16 3. All materials produced by the Filter Team shall be designated with a word mark “Produced
17 Pursuant to FRE 502(d) Order.” Before using any of the Done PPM addressed by this
18 motion: (1) at trial; (2) in public pre-trial proceedings; or (3) in a manner that may lead
19 otherwise to public disclosure, a party shall give three (3) days’ notice prior to any such
20 intended use to: (1) counsel for Done; (2) their co-defendant; and (2) the Prosecution Team.
21 If Done does not consent to a party’s use of the Done PPM, that party may file a motion
22 with the Court seeking authorization to use the material.

23

24 ¹ The United States Filter Team may not share a first-level supervisor with anyone on the
25 investigative/prosecution team (the “Prosecution Team”). Any supervisor involved in the Filter Team’s
26 review will be walled off from the underlying investigation.

26 ² “Potentially Protected Material” is discovery material that is potentially protected from disclosure
27 by the attorney-client privilege, work-product doctrine, or any other legally recognized privilege or
28 protection. This includes, but is not limited to, material over which a potential privilege holder has asserted
 a specific claim of attorney-client privilege, work-product doctrine, or any other legally recognized
 privilege or protection, but over which a Court has not yet ruled.

- 1 4. Pursuant to Federal Rule of Evidence 502(d), the attorney-client privilege and other
2 privileges or protections are not waived by disclosure connected with the litigation pending
3 before the Court, nor constitute waiver in any other federal or state proceeding. Nothing in
4 this Order precludes Done from asserting privilege claims over the disclosed materials in
5 this proceeding or any future proceedings in federal or state court.
- 6 5. The Government reserves its rights to contest Done's privilege assertions over the Done
7 PPM at any time. However, the United States Filter Team's production of Done PPM to
8 the Defendants pursuant to this Order will not be construed as a waiver as to the
9 Government or any other party, and the Government agrees that it will not claim the United
10 States Filter Team's production of Done PPM to Defendants operated as a waiver.
- 11 6. The Done PPM shall be subject to the Stipulated Protective Orders [ECF No. 38 and 149].

12
13 **IT IS SO ORDERED.**

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15 Dated:

HON. CHARLES R. BREYER
United States District Judge